

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 1:11-cr-099

Also Case No. 1:13-cv-123

-vs-

:

Chief Judge Susan J. Dlott

Magistrate Judge Michael R. Merz

RODNEY RIDDLE,

Defendant.

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**DECISION AND ORDER**

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This § 2255 case is before the Court on Defendant's Objections (Doc. No. 158 & 166) to the Magistrate Judge's Report and Recommendations (the "Report," Doc. No. 156) and Supplemental Report and Recommendations (the "Supplemental Report," Doc. No. 162). These Reports relate to Defendant's Amended Motion to Vacate under 28 U.S.C. § 2255 (Doc. No. 139).

Pursuant to Fed. R. Civ. P. 72, the Court has reviewed the findings and conclusions of the Magistrate Judge and has considered *de novo* all of the filings in this case with particular attention to the issues as to which Petitioner has lodged objections. Having done so, the Court determines that the Magistrate Judge's recommendations on the Amended Motion to Vacate should be adopted.

This Court has subject matter jurisdiction of the wire fraud charge brought against the Defendant, that charge was brought within the relevant statute of limitations, Defendant is not

factually innocent within the meaning of that term in federal habeas corpus jurisprudence, and the United States was not bound by the prior cooperation agreement with Defendant for reasons the Court has already given. Therefore trial counsel was not ineffective in failing to raise these issues and appellate counsel was not ineffective in failing to allege ineffective assistance of trial counsel on appeal.

This case is also before the Court on the Magistrate Judge's Report and Recommendations (Doc. No. 116) and Supplemental Report and Recommendations (Doc. No. 130) recommending Defendant's Motion to Withdraw his guilty plea (Doc. No. 71) be denied.

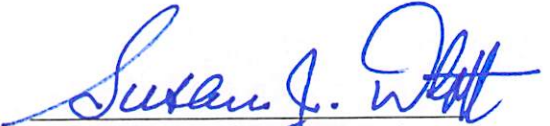
Pursuant to Fed. R. Civ. P. 72, the Court has reviewed the findings and conclusions of the Magistrate Judge and has considered *de novo* all of the filings in this case with particular attention to the issues as to which Petitioner has lodged objections. Having done so, the Court determines that the Magistrate Judge's recommendations on the Amended Motion to Vacate should be adopted. The Court finds that Defendant has not established that his guilty plea was not knowing, intelligent, and voluntary. Therefore the Magistrate Judge's recommendation that the Motion to Withdraw Plea be denied is ADOPTED.

The Magistrate Judge's Report and Recommendations (Doc. No. 117) and Supplemental Report and Recommendations as they relate to Defendant's original § 2255 Motion (Doc. No. 98) are MOOT because Defendant filed an Amended Motion to Vacate.

Accordingly, it is hereby ORDERED that the Amended § 2255 Motion herein be dismissed with prejudice, that the Motion to Withdraw Guilty Plea be denied, and that Petitioner be denied a certificate of appealability. The Court hereby certifies to the Sixth Circuit Court of Appeals that any appeal from this Order would be objectively frivolous and should therefore not be permitted to proceed *in forma pauperis*.

The Clerk shall enter judgment accordingly and terminate this case on the docket of this Court.

February 27, 2015



Susan J. Dlott, Chief Judge  
United States District Court